



PATENT  
U-9424



25189

PATENT TRADEMARK OFFICE

3762

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#9

In re the application of:

**ARDIZZONE, Vincent**

Serial Number: 10/087,135

Filed: February 28, 2002

For: **BI-AXIAL ROTATING MAGNETIC THERAPEUTIC DEVICE**

BOX PATENT APPLICATION

Commissioner for Patents

Washington, D.C. 20231

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### **PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER M.P.E.P. § 708.02, VIII**

Dear Sir:

Applicant hereby petitions to make special the above-referenced new application, which has not received any examination by the Examiner. Applicant has conducted a pre-examination search and seek to expedite examination of the present application.

All the claims in this case are directed to a single invention. If the Patent Office determines, however, that all the claims presented are not obviously directed to a single invention, then Applicant will make an election without traverse as a prerequisite to the grant of special status, electing the apparatus claim and withdrawing from examination the method claims.

An Information Disclosure Statement was previously filed in this matter setting forth the entire results of the performed search. The Statement is accompanied by copies of all of the uncovered references which are also addressed in this Petition. These references have one or more

elements in common with the invention of the present case. However, none of them are believed to be any more pertinent to patentability than those discussed in more detail herein.

### **DETAILED DISCUSSION OF THE REFERENCES**

Set forth below are detailed descriptions of the patents deemed most closely related to the claims of the present invention and having the most applicability to patentability thereof. Upon review of the following, Applicants believe that the Examiner will agree that these references do not defeat patentability of Applicants' claims and that Applicants' claims should be allowed.

#### **Souder, U.S. Pat. No. 6,001,055**

This reference is directed to a magnetic therapeutic device which subjects a treatment area such as an anatomical area or plant to a dynamic magnetic field having an amplitude of at least a half waveform. To subject the treatment area to such a dynamic magnetic field, the magnetic source may be rotated, oscillated, moved through a particular pattern, or otherwise moved relative to the treatment area. Each embodiment of the present invention includes at least one permanent magnet contained within a housing having an application surface which is adapted to engage a treatment area such as an anatomical area of a user's body. The application surface is positioned relative to the magnet so that the magnetic field extends around and/or through the application surface to the anatomical area to be treated. Each magnet has a north and south magnetic pole and a pole width equal to the width of the magnet at the poles. Means for moving the permanent magnet are provided in each embodiment, and are preferably positioned within the housing.

The present invention is patentably distinct over Souder, in that Souder does not disclose a magnet unit that rotates about two axes at the same time.

**Kleitz, U.S. Pat. No. 5,632,720**

This reference is directed to a magnetic massage wand apparatus with a motorized revolving wand including magnetic units aligned and spaced to obtain constantly alternating polarity fields at 90 degrees angles about the wand creating a general therapeutic effect of magnetism. The wand is operated by waving or holding it above or near the body tissue, so that blood circulation is effectively enhanced due to the alternating magnetic polarity occurring at a rapid and consistent rate which therapeutically effect blood vessels to increase blood flow irrespective of the orientation of any blood vessel with respect to the magnetic wand or how deep in the body the blood vessel may be.

The present invention is patentably distinct over Kleitz, in that Kleitz does not disclose a magnet unit that rotates about two axes at the same time.

**Anzai et al., U.S. Pat. No. 4,846,159**

This reference is directed to a massage apparatus adapted to be utilized for various massage manner comprising at least two balls which are provided with a multiple numbers of projections on the outer periphery thereof and a case for enclosing and retaining the balls in a rotatable state by rotatably supporting a pair of projections of the balls and in attachable/detachable manner.

The present invention is patentably distinct over Anzai et al., in that Anzai et al. does not disclose a magnet unit that rotates about two axes at the same time.

**Sato, U.S. Pat. No. 4,744,350**

This reference is directed to a scalp massager which has a main body provided on the rear end thereof with a grip portion, a base portion, a pair of supporting arms projecting laterally from the base portion and spaced from each other in the longitudinal direction of the base portion, a roller member rotatably mounted between the arms for rotation about an axis substantially parallel to the longitudinal axis of the base portion, the roller member being provided on the outer peripheral surface thereof with a multiplicity of scalp stimulating projections, and compression springs for resiliently biasing the roller member away from the grip portion. The user grips the grip portion and lightly presses the roller member onto his head, and moves the massager back and forth so that the roller member rolls on the scalp with the result that the projections stimulate blood vessels under the scalp so as to enhance the blood stream. The roller member, which is resiliently urged by the compression springs, can gently and uniformly contact the scalp so as to moderately stimulate the head without any risk for the scalp to be damaged.

The present invention is patentably distinct over Sato, in that Sato does not disclose a magnet unit that rotates about two axes at the same time.

**Hörl, U.S. Pat. No. 4,727,857**

This reference is directed to a device for producing pulsating magnetic fields comprises a substrate rotatable about an axis and having disposed thereon at least one pair of magnets with a direction of magnetization substantially parallel to the rotational axis such that rotation of the substrate by 180° about its rotational axis transfers the pole faces of the magnets into each

other and that there exists no symmetry of the pole faces relative to a plane which includes the rotational axis. The orientation of the pole faces of the magnets is such that during rotation of the substrate, magnetic forces are exerted radially with respect to the axis about which the substrate is rotated by drive structure provided for that purpose. In accordance with various embodiments, the magnets may be disposed upon one or both sides of the substrate and may be of rectangular, arcuate, wedge-like or other plate-like configurations.

The present invention is patentably distinct over Hörl, in that Hörl does not disclose a magnet unit that rotates about two axes at the same time.

**Kawada, U.S. Pat. No. 4,162,675**

This reference is directed to a body specified area stimulating device wherein a large number of thin bars having elasticity are fixed on an operating shaft. Beating members are fitted to the tips of the thin bars. The shaft is coupled to a power drive unit formed by a motor and the beating members are rotated to beat the body below the head to stimulate a large number of specified areas existing in the body. Also a head specified area stimulating device is disclosed wherein specified area beating members having elasticity are provided in front portion of a rod for converting the rotating motion of the motor to reciprocating motion of right and left directions. The rod is coupled to the power drive unit and the beating members are caused to appear frequently from the case to stimulate the specified areas of the head. The body specified area stimulating device and the head specified area stimulating device are interchangeably mounted on the power drive unit so that the specified areas of the whole body can be stimulated and the desired therapy can be obtained.

The present invention is patentably distinct over Kawada, in that Kawada does not disclose a magnet unit that rotates about two axes at the same time.

**Ohama, European Patent Publication No. EP 0 253 398 B1**

This reference relates to a small-sized magnetic health device which can be used, for the purpose of keeping one's health, in such a manner that the same is carried with a user or attached to clothes, a belt, spectacles, or others of the user.

The present invention is patentably distinct over Ohama, in that Ohama does not disclose a magnet unit that rotates about two axes at the same time.

**German Patent No. DE25 10 173 A1**

Applicant has no English translation for this reference; however, the drawings illustrate a device that possibly allows magnets to rotate about axis 4. The present invention is patentably distinct over this German patent, in that the German patent does not disclose a magnet unit that rotates about two axes at the same time.

**Toshihisa, Japanese Patent Publication No. JP04053567A**

This reference is directed to a facial treatment roller designed to promote the metabolism of the skin and hold the tension of the skin by rotatably mounting a roller made of permanent magnets on the top of a grip, and rubbing the skin with the roller. The present invention is patentably distinct over Toshihisa, in that Toshihisa does not disclose a magnet unit that rotates about two axes at the same time.

**Grander, PCT International Patent Publication No. WO 82/03177**

This reference is directed to an apparatus for the medical treatment of living organisms, particularly human beings, comprises at least a rod-shaped magnet (1), preferably a permanent magnet. Preferably however, the magnets form a group of four arranged in parallel between each other and secured at their ends between two front discs (5) made of iron or other magnetizable material. The magnets are enclosed in a sleeve (3) of iron or other magnetizable material. Their poles are connected by one of the front discs (5) to a common contact (4). The distances separating the magnets between each other and with the sleeve (a, b) are substantially equal. Connection cables (6) are connected to the common contacts (4) of the two front discs (5). The sleeve (3) may be surrounded at a distance by a casing (7) made of non-conducting material.

The present invention is patentably distinct over Grander, in that Grander does not disclose a magnet unit that rotates about two axes at the same time.

Applicant hereby authorizes the Patent Office to charge Applicant's attorneys' deposit account no. 03-2030 for the fees as required under 37 C.F.R. 1.17(h). In complying with the requirements of the present petition and in particularly setting forth the patentability of his claims, Applicant believes the application is in a condition for allowance. Applicant respectfully requests the Examiner to pass the application onto allowance at an early date.

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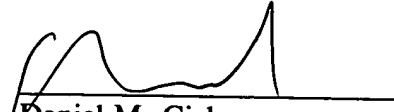


It is not believed that any additional fees are due, however, in the event any additional fees due, the Examiner is authorized to charge Applicant's attorney's deposit account no. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

Date: December 13, 2002

  
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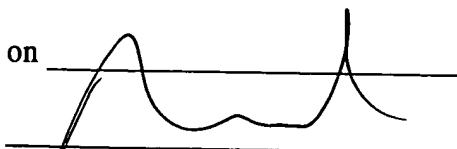
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